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| APPLICATION NO.         | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 10/090,929              | 03/04/2002  | Toshiki Kubo         | 113197-024          | 6727             |
| 24573                   | 7590        | 01/31/2005           |                     | EXAMINER         |
| BELL, BOYD & LLOYD, LLC |             |                      |                     | LUU, THANH X     |
| PO BOX 1135             |             |                      |                     |                  |
| CHICAGO, IL 60690-1135  |             |                      | ART UNIT            | PAPER NUMBER     |
|                         |             |                      | 2878                |                  |

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|------------------------------|------------------------|---------------------|
|                              | 10/090,929             | KUBO ET AL.         |
| Examiner                     | Art Unit               |                     |
| Thanh X. Luu                 | 2878                   |                     |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 November 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-3 and 5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-3 and 5 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 15, 2004 has been entered.

Claims 1-3 and 5 are currently pending.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 5, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Tokumaru et al. (U.S. Patent 5,611,015).

Regarding claims 1-3 and 5, Tokumaru et al. disclose (see Figs. 2-4) a method of estimating an amount of angular disagreement of planes of polarization between two polarization-maintaining optical fibers in which at least one of the fibers has a pair of stress applying sections (2c), comprising the steps of: irradiating a light (3) on the lateral side of the fibers during or after a connection of the fibers; and estimating the amount of angular disagreement of the plane of polarization of the fiber having the stress applying sections from a function of positions (see Fig. 12) and heights (see Fig. 12) of two

peaks of brightness (2p, 3p) corresponding to the stress applying functions of a transmitted light produced by irradiating the light. A function of the heights of the peaks is inherently taken into account in the estimation. That is, by definition, a “peak” is a part of a signal or curve that is higher than other parts of the signal or curve. Since peaks are identified or detected, heights would have to be examined and the estimation is “a function” of heights. Tokumaru et al. also disclose fusing the fibers.

***Response to Arguments***

4. Applicant's arguments filed November 15, 2004 have been fully considered but they are not persuasive.

Applicant asserts that the prior art only calculates the values corresponding to the relative positions of the peaks and fails estimate the value using the heights of the peaks. Examiner disagrees. The claims simply state that the value is estimated based on “a function of positions and heights” of the peaks. Since a peak is the highest portion of a signal, and peaks are detected, height is taken into consideration. As such, the prior art does estimate the value based on a function of positions and heights as claimed.

Thus, as set forth above, this rejection is proper.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh X. Luu whose telephone number is 571-272-2441. The examiner can normally be reached on M-F 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thanh X. Luu  
Primary Examiner  
Art Unit 2878

01/2005